



Protecting Montana's consumers through insurance and securities regulation

Revise Captive Insurer Laws – HB160
Sponsored by Representative Tim Furey at the request of the State Auditor's Office

BUSINESS & LABOR
EXHIBIT NO. 2
DATE 3-3-09
BILL NO. HB 160

Background: The 2001 Legislature passed a law allowing captive insurance companies to be domiciled in Montana. Captive insurance companies are insurance companies established to finance the risk of a parent company or group. Captive insurance can provide the parent company or group with many advantages. Premiums may be lower since the captive is not burdened with the overhead costs associated with commercial insurance companies. If loss experience is favorable, profit remains with the parent company. Captive insurance companies allow direct access to reinsurance markets, reducing costs. Claims are controlled by the company. By using a captive, a company or group can stabilize premium over the long term.

Benefit to Montana: As demonstrated by Vermont, the captive insurance industry can provide significant economic benefit to a state. Vermont became a captive domicile in the early 1970's. Today, Vermont has licensed more than 800 captive insurance companies from which it collects annual premium taxes of more than \$25 million. In addition, an infrastructure of professional service providers (managers, accountants, lawyers, actuaries) has developed to support the industry. To date, 35 captive insurance companies have chosen Montana as their domicile, 26 having been licensed since 2005. Captive insurers domiciled in Montana provide insurance to rural hospitals, nursing homes, doctors, commercial trucking companies, contractors, and others. The anticipated premium tax collection in FY 2009 is approximately \$350,000. Two Montana based captive management firms have been established in Montana to provide professional services. Long-term benefits to Montana include the potential for new jobs, an expanded tax base and increased economic activity.

Bill Details:

1. The amendment to 33-28-107 provides the Commissioner with the ability to waive Risk Based Capital (RBC) reports for newly formed (*within two years*) captive insurance companies operating as risk retention groups (RRGs). The RBC report is an NAIC developed report for traditional insurance companies operating under statutory accounting principles. The purpose of the report is to provide a relative measure of capital adequacy; however, sometimes when the RBC formula is applied to risk retention groups using Generally Accepted Accounting Principles (GAAP) the results are not accurate. The ability to waive the requirement in the first two years will prevent captive RRG's from reporting erroneous RBC scores.
2. The amendment to 33-28-102 allows Captives to also write surety and marine insurance
3. The amendment to 33-28-210, tax on premium collected, clarifies that because there is a \$100,000 cap on premium tax, there is no need to include 4 tiers of taxation. The \$100,000 limit is met in tier 2. It also prorates the minimum tax, depending on which quarter of the year a new captive is first licensed.
4. This amendment to the applicable laws section in 33-28-207 adds 33-3-431, guidelines for surplus notes. This change is necessary to ensure that when captive insurance companies are funded using surplus notes, the surplus notes conform to standard surplus note requirements. It also adds the statutes in Title 33, Chapter 3, Part 6, relating to dissolution and liquidation. Previously, SAO had no guidelines to use when faced with a dissolution and/or liquidation.